

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE:

JOSEPH ZWICHAROWSKI

Debtor

WELLS FARGO BANK, N.A.

Movant

v.

JOSEPH ZWICHAROWSKI

Respondent

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BK. No. 17-11811 mdc

Chapter No. 13

11 U.S.C. §362

**MOTION OF WELLS FARGO BANK, N.A. FOR RELIEF FROM AUTOMATIC STAY
UNDER §362 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtor JOSEPH ZWICHAROWSKI A/K/A JOSEPH ZWICHAROWSKI, JR.

1. Movant is **WELLS FARGO BANK, N.A.**.

2. Debtor, JOSEPH ZWICHAROWSKI A/K/A JOSEPH ZWICHAROWSKI, JR is the owner of the premises located at **3281 RED LION ROAD, PHILADELPHIA, PA 19114**, hereinafter known as the mortgaged premises.

3. Debtor executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

4. Movant is the holder of a mortgage on the mortgaged premises.

5. The terms of the Debt Agreement were amended by a loan modification agreement entered into by and between Wells Fargo Bank, N.A. and Debtor(s) dated February 10, 2017 (the "Loan Modification Agreement").

6. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

7. Movant wishes to institute foreclosure proceedings on the mortgage because of

8. The foreclosure proceedings to be instituted were stayed by the filing of the instant Chapter 13 Petition.

9. As of August 29, 2018, Debtor has failed to tender post-petition mortgage payments for the months of May 2018 through August 2018. The monthly payment amount for the month of May 2018 is \$942.36, payment amount for the months of June 2018 through August 2018 is \$941.76, less suspense in the amount of \$507.07, for a total amount due of \$3,260.57. The next payment is due on or before September 1, 2018 in the amount of \$941.76. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

10. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

11. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

12. Movant requests that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 with respect to **3281 RED LION ROAD, PHILADELPHIA, PA 19114** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

- c. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and
- d. Granting any other relief that this Court deems equitable and just.

S/Jerome Blank

Jerome Blank, Esq., Id. No.49736

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September 7, 2018